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10/003,093	11/02/2001	Joern Ostermann	2000-0600C	5351
7590	05/24/2005		EXAMINER RIVERO, MINERVA	
Samuel H. Dworetsky AT&T CORP. P.O. Box 4110 Middletown, NJ 07748-4110			ART UNIT 2655	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/003,093

**Applicant(s)**

OSTERMANN ET AL.

**Examiner**

Minerva Rivero

**Art Unit**

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 29-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/01/04, 12/30/04, and 5/9/2005 ✓
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Responding to the Office Action mailed 9/30/2004, in the Remarks filed on 12/30/2004, Applicant amended the title of the invention and the drawings submitted 11/02/2001. Furthermore, Applicant amended claims 1-2, 5, 7-8, 11-15, 18-27 and 29-30, canceled claim 28, and submitted arguments to traverse the rejection of claims 1-27, 29, and 30.

### ***Drawings***

2. The drawings were received on 12/30/2004. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (US 2001/0050681), further in view of Rosenblatt *et al.* (US 2002/0007276) and further in view of Kurlander (US Patent 6,232,966).

5. Regarding claims 1 and 2, Edwards discloses receiving at least one image from the sender (*Composing New Messages*, Page 55);

associating each image with a tag (*media type*, Page 52, second column, 4<sup>th</sup> full paragraph) and

presenting the sender with options to insert the tag associated with the image into the sender text (Page 52, second column, 4<sup>th</sup> full paragraph).

Edwards does not explicitly disclose but Keys *et al.* do disclose delivering the multi-media message with the at least one image presented as background to the animated entity according to a position of the tag associated with the at least one image in the sender text ([0049], Lines 6-9).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards with the further step of delivering the multi-media message with the at least one image presented as background to the animated entity according to a position of the tag associated with the at least one image as taught by Keys *et al.*, to enhance the recipient's comprehension of the multi-media message.

Moreover neither Edwards nor Keys *et al.* disclose having an animated entity audibly presenting speech from text created by the sender.

Rosenblatt *et al.*, however, disclose having an animated entity (virtual representative) audibly presenting speech from text created by the sender ([0008], Lines 3-8).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Edwards and Keys *et al.* by having an animated audible entity presenting speech from text created by the sender as taught by Rosenblatt *et al.* so as to make it useful for handicapped users with a reading disability.

Moreover, the combined teachings of Edwards, Keys *et al.* and Rosenblatt *et al.* do not disclose but Kurlander suggests presenting the at least one image as background when a word prior to or a word a predetermined number of word positions prior to the position of the tag associated with the at least one image is presented by the animated entity (*a background image to an animated entity chat is changed in accordance and displayed concurrently with trigger words in a text*, Col. 8, Lines 32-59). Thus Kurlander suggests the concurrency of a background image presentation and a word found in a text, particularly a background image and a word in a text that are contextually related.

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Edwards, Keys *et al.* and Rosenblatt *et al.*, with presenting the at least one image as background when a word prior to or a word a predetermined number of word positions prior to the position of the

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tag associated with the at least one image is presented by the animated entity, as suggested by Kurlander, in order to display an image concurrently with the portion of text to which it is relevant and consequently render a multi-media presentation that is more comprehensible to the recipient.

6. Regarding claims 3 and 4, Edwards discloses the one image is a static image and the one image is a video (*static and dynamic media*, (Page 49).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (U.S. 2001/0050681) and further in view of Rosenblatt *et al.* (U.S. 2002/0007276).

Regarding claim 5, Edwards discloses

associating each predefined image with a tag (Page 52, second column, 4<sup>th</sup> full paragraph) and presenting the sender with options to insert a tag associated with one of the group of predefined images into the sender text (Page 52, second column, 4<sup>th</sup> paragraph) and

displaying the sender text, the tag associated with the one of the group of the predefined images, and a position of the tag with respect to the sender text, when the sender inserts the tag (*attachment icons*, Page 50, second column, 5<sup>th</sup> and 6<sup>th</sup> paragraphs).

Edwards does not explicitly disclose but Keys *et al.* do disclose storing a group of predefined images (*stored files*, [0023], Lines 8-10) and delivering the multi-media

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message with the image associated with the inserted tag presented as background to the animated entity according to a position of the tag within the sender text ([0049], Lines 6-9).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards by storing a group of predefined images and delivering the multimedia message with the image associated with the inserted tag presented as background to the animated entity according to a position of the tag within the sender text as taught by Keys *et al.* to provide the user with a readily available selection of images that will aid in the customization of the multi-media message according to the user's preference and to enhance the recipient's comprehension of the multi-media message.

Moreover, the combined teachings of Edwards and Keys *et al.* do not disclose but Rosenblatt *et al.* do disclose having an animated entity audibly presenting speech from text created by the sender (*virtual representative*, [0008], Lines 3-8).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Edwards and Keys *et al.* by having an animated entity audibly presenting speech from text created by the sender as taught by Rosenblatt *et al.* so as to make it useful for handicapped users with a reading disability.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (U.S. 2001/0050681), further in view of

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Rosenblatt *et al.* (U.S. 2002/0007276), as applied to claim 5 above, and further in view of Mayle *et al.* (U.S. 6,542,936).

Regarding claim 6, Edwards discloses associating each at least one sender-created image with a sender-image tag (Page 52, second column, 4<sup>th</sup> full paragraph) and presenting the sender with an option to insert a sender-image tag associated with one of the at least one sender-created images into the sender text (Page 52, second column, 4<sup>th</sup> full paragraph).

Edwards, however, does not disclose but Mayle *et al.* do disclose receiving at least one sender-created image (*graphic data*, Col 7, Lines 24-30).

It would have been further obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Edwards, Keys *et al.* and Rosenblatt *et al.* with the further step of receiving at least one sender-created image as taught by Mayle *et al.* so as to allow the user to create a more personal multi-media message and enable customization of the multi-media message according to the user's preference.

9. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards (IEEE TRICOMM 91) in view of Keys *et al.* (U.S. 2001/0050681), further in view of Rosenblatt *et al.* (U.S. 2002/0007276), as applied to claim 5 above, further in view of Mayle *et al.* (U.S. 6,542,936), as applied to claim 6 above, and further in view of Kurlander (US Patent 6,232,966).



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10. Regarding claim 7, it recites a combination of the elements in claims 5 and 6, and therefore the same rejections apply.

Furthermore, the combined teachings of Edwards, Keys *et al.*, Rosenblatt *et al.* and Mayle *et al.* do not disclose but Kurlander suggests the predefined images or sender-created images are displayed as background to the animated entity as soon as a predetermined number of words prior to the position of the respective tag within the sender text begins to be delivered (*a background image to an animated entity chat is changed in accordance and displayed concurrently with trigger words in a text*, Col. 8, Lines 32-59). Thus Kurlander suggests the concurrency of a background image presentation and a word found in a text, particularly a background image and a word in a text that are contextually related.

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Edwards, Keys *et al.*, Rosenblatt *et al.* and Mayle *et al.* with presenting the at least one image as background when a word prior to or a word a predetermined number of word positions prior to the position of the tag associated with the at least one image is presented by the animated entity, as suggested by Kurlander, in order to display an image concurrently with the portion of text to which it is relevant and consequently render a multi-media presentation that is more comprehensible to the recipient.

11. Regarding claim 8, Kurlander further suggests the predefined images or sender-created images are no longer displayed as background to the animated entity as soon

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as a predetermined number of words after the position of the respective tag within the sender text begins to be delivered (*a background image to an animated entity chat is changed in accordance with trigger words in a text*, Col. 8, Lines 32-59).

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Edwards, Keys *et al.*, Rosenblatt *et al.* and Mayle *et al.* by having predefined images or sender-created images are no longer displayed as background to the animated entity as soon as a predetermined number of words after the position of the respective tag within the sender text begins to be delivered, as suggested by Kurlander, in order to avoid confounding the recipient of the multi-media message by presenting a background image that is no longer associated with the rendered text.

12. Regarding claims 9 and 10, Edwards further discloses the predefined images are either static images or video images (*static and dynamic media*, Page 49), and the sender-created images are either static images or video images (*static and dynamic media*, Page 49).

13. Claims 11, 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Edwards (IEEE TRICOMM 91) and further in view of Keys *et al.* (U.S. 2001/0050681).

14. Regarding claim 11, Rosenblatt *et al.* disclose

a method of customizing a multi-media message created by a sender for a recipient, the multi-media message having an animated entity audibly presenting speech converted from text created by the sender (*virtual representative*, [0008], Lines 3-8) and

presenting the sender with options to position the animated entity in any location on a display screen using animated entity position tags ([0034])

Rosenblatt does not explicitly disclose but Edwards does disclose presenting the sender with options to insert visible image tags into the sender text such that when the visible image tag is inserted, the visible image tag, the sender text, and a position of the visible image tag with respect to the sender text is displayed (*attachment icons*, Page 50, second column, 5<sup>th</sup> and 6<sup>th</sup> paragraphs).

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with presenting the sender with options to insert visible image tags into the sender text such that when the visible image tag is inserted, the visible image tag, the sender text, and a position of the visible image tag with respect to the sender text is displayed, as taught by Edwards, in order to provide the composer and recipient of the message guidance as to when the attachment associated with the tag will be retrieved during the playback of the message.

It would have been obvious to one having ordinary skill in the art at the time of invention to present the user with the option to supplement the teachings of Rosenblatt *et al.* and insert the tag associated with the image into the sender text, as taught by

Edwards, thus allowing the user to customize the message according to the user's preference.

Moreover, neither Rosenblatt *et al.* nor Edwards specifically teach delivering the multi-media message with the images associated with the inserted visible image tag presented as background to the animated entity according to a position of the respective tag within the sender text.

Keys *et al.*, however, disclose delivering the multi-media message with the images associated with the inserted visible image tag presented as background to the animated entity according to a position of the respective tag within the sender text ([0049], Lines 6-9).

It would have been further obvious to one ordinarily skilled in the art at the time of the invention to modify the combined teachings of Rosenblatt *et al.* and Edwards and present the image as background to the animated entity according to a position of the respective tag so as make the multi-media message more comprehensible to the recipient.

15. Regarding claim 12, Rosenblatt *et al.* do not explicitly disclose but Edwards does disclose the stored images are static and/or video images (static and dynamic media) (Page 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* with the stored images being

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static and/or video images as taught by Edwards, so as to allow the user to customize the message according to user's preference.

16. Regarding claim 13, Rosenblatt *et al.* disclose the further step of presenting the sender with an option to remove the animated entity from the display screen (performance) using an animated entity remove tag and if the sender inserts the animated entity remove tag, delivering the multi-media message with the images associated with the inserted tag presented as background while removing the animated entity according to a position of the animated entity remove tag within the sender text ([0033]).

17. Regarding claim 14, it recites a combination of the elements in claims 11 and 12, and therefore the same rejections apply.

18. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (U.S. 2002/0007276) in view of Edwards (IEEE TRICOMM 91), further in view of Keys *et al.* (U.S. 2001/0050681), as applied to claim 14 above, and further in view of Mayle *et al.* (U.S. Patent 6,542,936).

Regarding claim 15, the combined teachings of Rosenblatt *et al.*, Edwards and Keys *et al.* do not explicitly disclose the stored video segments are non-sender-created and optionally sender-created.

Mayle *et al.*, however, disclose the stored video segments are non-sender-created and optionally sender-created (Col. 7, Lines 24-34).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.*, Edwards and Keys *et al.* by having the stored video segments being non-sender-created and optionally sender-created as taught by Mayle *et al.* to allow the user to create a more personal multi-media message and allow customization of the multi-media message according to user's preference.

19. Claims 16-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landress *et al.* (U.S. 2003/0191816) in view of Rosenblatt *et al.* (U.S. 2002/0007276), further in view of Leone *et al.* (US Patent 5,745,360).

20. Regarding claim 16, Landress *et al.* disclose a method of sending a multi-media message from a sender to a recipient, including an animated entity for delivering a message having text, the method comprising providing the sender with a group of customizable multi-media message templates, each template of the groups of templates including predefined parameters comprising a predefined text message, a predefined

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animated entity, a predefined background, predefined background music and if the user chooses a customizable multi-media message template and presenting the sender with options to change any of the predefined parameters ([0108], Lines 8-11; [0018]; [0092], Lines 5-7; [0093], Lines 5-8; [0127], Lines 14-16; [0007], Lines 14-16) but fail to explicitly disclose a predefined set of emoticons within the text of the message.

Rosenblatt *et al.*, however, disclose a predefined set of emoticons (emotion cues) within the text message ([0019], Lines 5-10).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Landress *et al.* with a predefined set of emoticons within the text of the message as taught by Rosenblatt *et al.* to enable the user to express their emotions in the message and allow customization of the multi-media message according to the user's preference.

Moreover, the combined teachings of Landress *et al.* and Rosenblatt *et al.* do not disclose presenting the sender with an option to modify a camera position using camera control tags within the text.

However, Leone *et al.* suggest presenting the sender with an option to modify a camera position using camera control tags within the text [*adding image tags with a zoom mode in a hypertext markup language (HTML) document*, Col. 15, Line 56 – Col. 16, Line 9].

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Landress *et al.* and Rosenblatt *et al.*, by presenting the sender with an option to modify a camera position

using camera control tags within the text, as suggested by Leone *et al.* to enable the sender to compose a comprehensible multi-media message.

21. Regarding claim 17, Landress *et al.* further disclose once the sender customizes the multi-media message template, if at all, delivering the multi-media message to the recipient ([0003]).

22. Regarding claim 18, Landress *et al.* further disclose presenting the sender with options to change any of the predefined parameters further comprises presenting the user with an option to add the name of the recipient of the multi-media message ([0069], Lines 1-4; [0084], Lines 1-6; [0108], Lines 5-8).

23. Regarding claim 19, Landress *et al.* further disclose the further step of presenting the user with an option to choose from a list of predefined and/or sender-added options for each of the template parameters for customizing the multi-media message ([0071]).

24. Regarding claim 20, Landress *et al.* do not disclose but Rosenblatt *et al.* do disclose presenting the user with an option to choose at least one position from which the animated entity will deliver the message ([0034]).

It would have been obvious to supplement the teachings of Landress *et al.* by presenting the user with an option to choose at least one position from which the animated entity will deliver the message as taught by Rosenblatt *et al.* to allow the user



to organize a particular multi-media message as appropriate and enhance the recipient's comprehension of the message.

25. Regarding claim 21, Landress *et al.* do not disclose but Rosenblatt *et al.* do disclose presenting the user with an option to choose at least one position from which the animated entity will deliver the message further comprises presenting the user with an option to control animated entity entrance and departure features ([0034]).

It would have been obvious to supplement the teachings of Landress *et al.* by presenting the user with a further option to control animated entity entrance and departure features as taught by Rosenblatt *et al.* to allow the user to organize a particular multi-media message as appropriate.

26. Regarding claim 23, Landress *et al.* do not disclose but Rosenblatt *et al.* do disclose providing the sender with options to choose an animated entity from a group of animated entities ([0008], Lines 3-8).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Landress *et al.* by providing the sender with options to choose an animated entity from a group of animated entities, as taught by Rosenblatt *et al.*, thus allowing the user to choose an animated entity that is more suited to the content of the multi-media message.

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27. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landress *et al.* (U.S. 2003/0191816) in view of Rosenblatt *et al.* (U.S. 2002/0007276), further in view of Leone *et al.* (US Patent 5,745,360) and further in view of Kurlander (US Patent 6,232,966).

Regarding claim 22, the combined teachings of Landress *et al.*, Rosenblatt *et al.* and Leone *et al.* do not disclose but Kurlander suggests presenting the background when a word prior to the position of a tag associated with the an image of the background is presented by the animated entity (*a background image to an animated entity chat is changed in accordance and displayed concurrently with trigger words in a text*, Col. 8, Lines 32-59). Thus Kurlander suggests the concurrency of a background image presentation and a word found in a text, particularly a background image and a word in a text that are contextually related.

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Landress *et al.*, Rosenblatt *et al.* and Leone *et al.* with presenting the background when a word prior a position of a tag associated with the an image of the background is presented by the animated entity, as suggested by Kurlander, in order to display an image concurrently with the portion of text to which it is relevant and consequently render a multi-media presentation that is more comprehensible to the recipient.

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28. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landress *et al.* (U.S. 2003/0191816) in view of Rosenblatt *et al.* (U.S. 2002/0007276), further in view of Leone *et al.* (US Patent 5,745,360), as applied to claim 23, and further in view of Park *et al.* (U.S. 2001/0050689) and further in view of Cote (U.S. 2004/0091154).

29. Regarding claim 24, the combined teachings of Landress *et al.*, Rosenblatt *et al.* and Leone *et al.* do not disclose but Park *et al.* do disclose presenting the sender with options to add accessories to the animated entity further comprises presenting the sender with options to add accessories comprising glasses, hats, shirts, hair color and hair style ([0037], Lines 7-10; [0061], Lines 6-9; [0050], Lines 1-8; [0033], Lines 7-11; [0032], Lines 1-8).

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Landress *et al.*, Rosenblatt *et al.* and Leone *et al.* and present the sender with options to add accessories comprising glasses, hats, shirts, hair color and hair style, as taught by Park *et al.* to allow the user to customize the animated entity in a more realistic manner.

Moreover the combined teachings of Landress *et al.*, Rosenblatt *et al.*, Leone *et al.* and Park *et al.* do not explicitly disclose but Cote does disclose presenting the sender with options to add accessories comprising earrings and facial hair (mustache, beard) ([0030], Lines 3-5 and 7-10).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Park *et al.* and present the sender with options to add accessories comprising ear rings and facial hair as taught by Cote to allow the user to customize the animated entity in a more realistic manner.

30. Regarding claim 25, the combined teachings of Landress *et al.*, Rosenblatt *et al.*, Leone *et al.*, Park *et al.* and Cote, as applied to claim 24 above, do not disclose but Park *et al.* further disclose presenting the sender with options to add accessories to the animated entity further comprises presenting the sender with a list of accessories, the list of accessories provided by a multi-media message service provider and accessories added by the sender ([0033], Lines 1-7; [0059], Lines 21-24).

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Landress *et al.*, Rosenblatt *et al.*, Leone *et al.*, Park *et al.* and Cote, by presenting the sender with options to add accessories to the animated entity further comprises presenting the sender with a list of accessories, the list of accessories provided by a multi-media message service provider and accessories added by the sender, as further taught by Park *et al.*, to allow the user to customize the animated entity in a more realistic manner.

31. Regarding claim 26, the combined teachings of Landress *et al.*, Rosenblatt *et al.*, Leone *et al.*, Park *et al.* and Cote, as applied to claim 24 above, do not disclose but

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Park *et al.* further disclose presenting the sender with a preview of the animated entity with the chosen accessory options ([0052], Lines 5-8; Fig. 13, element 72).

It would have been obvious to one ordinarily skilled in the art at the time of invention to supplement the combined teachings of Landress *et al.*, Rosenblatt *et al.*, Leone *et al.*, Park *et al.* and Cote, by presenting the sender with a preview of the animated entity with the chosen accessory options, as further taught by Park *et al.*, thus allowing the sender of the multi-media message to verify an appearance of an animated entity before sending the multi-media message and ensuring the animated entity is modified in accordance with the preferences of the sender.

32. Claims 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt *et al.* (US. 2002/0007276), in view of Skelly (U.S. Patent 6,064,383).

Regarding claims 27 and 30, Rosenblatt *et al.* disclose a method of sending a multi-media message from a sender to a recipient, the multi-media message including an animated entity (virtual representative) for delivering a message having text ([0008], Lines 3-8),

providing the sender with options to choose an animated entity from a group of animated entities ([0008], Lines 3-8),

providing the sender with options to insert emoticons (emotion cues) in the text of the message ([0015], Lines 7-9),

providing the sender to modify an amplitude of emotions inserted in the text of the message ([0009], Lines 5-6),

and once the sender chooses emotions to add to the animated entity, if any, delivering the multi-media message to the recipient ([0036], Lines 1-5).

Rosenblatt *et al.* do not explicitly disclose but Skelly does disclose, if the sender modifies the amplitude of the emoticons inserted in the text, changing the appearance of the modified emoticons in the text of the message to reflect the change in amplitude for each modified inserted emoticon and wherein the appearance of the modified emoticons relates to an intensity of the modified amplitude (*intensity of the emotion to be reflected in the appearance of the character*, Col. 2, Lines 43-45).

It would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the teachings of Rosenblatt *et al.* by changing the appearance of the modified emoticons in the text of the message to reflect the change in amplitude for each modified inserted emoticon and having the appearance of the modified emoticons relate to an intensity of the modified amplitude, as taught by Skelly, to allow the user to more accurately convey emotions and enhance the recipient's comprehension of the message.

33. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (US 2002/0007276), in view of Skelly (US Patent 6,064,383), as applied to claim 27, further in view of Moses (US Patent 5,387,178).

The combined teachings of Rosenblatt and Skelly disclose changing the appearance of a graphical character based on the emotion to be represented by the character, but fail to disclose that this change of appearance involves a change in color.

However, Moses discloses changing a color of a light bulb with the objective of evoking a particular emotion in a user of a stimuli chair [Col. 3, Lines 40-48].

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to supplement the combined teachings of Rosenblatt and Skelly, with changing a color based on a desired emotion, as taught by Moses, in order to more effectively convey an emotion to a recipient of a message by applying the psychological connection between emotion and color, as further taught by Moses [Col. 3, Lines 42-44].

### ***Response to Arguments***

34. Applicant's arguments filed on 12/30/2004 have been fully considered but they are not persuasive.

35. Regarding claims 27 and 30, Applicant argues that since Skelly's disclosure refers to a 'graphical character', it does not anticipate the claimed element of "if the sender modifies the amplitude of emoticons inserted in the text, the appearance of the

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modified emoticons in the text of the message is changed to reflect the change in amplitude for each modified inserted emoticon”.

The Examiner cannot concur with the Applicant. Applicant's Specification describes emoticons of two types; text and icon emoticons [Page 17]. An icon emoticon is a graphical character employed to convey emotion, thus being the equivalent to the graphical representation with a variable emotion intensity disclosed by Skelly [Col. 2, Lines 43-45].

36. Regarding claims 5-6 and 11-15, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

37. Applicant's arguments with respect to claims 1-4, 7-10, 16-21 and 22-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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Slotznick (US Patent 6,011,537) discloses a system for displaying hypertext markup language (HTML) formatted information including the associated image tag properties.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (571) 272-7626. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Ivars Smits can be reached on (571) 272-7628. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR 5/18/2005



TĀLIVALDIS IVARS ŠMITS  
PRIMARY EXAMINER